

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

v.

DYLLAN M. BARBER,

Defendant.

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**20-MJ-1187-JJM**

**NOTICE OF MOTION**

**MOTION BY:**

Brian P. Comerford, Assistant Federal Public  
Defender.

**DATE, TIME & PLACE:**

Before the Honorable Jeremiah J. McCarthy, United  
States Magistrate Judge, Robert H. Jackson United  
States Courthouse, 2 Niagara Square, Buffalo, New  
York, **on the papers.**

**SUPPORTING PAPERS:**

Affirmation of Assistant Federal Public Defender  
Brian P. Comerford, dated February 1, 2021.

**RELIEF REQUESTED:**

Adjournment of Rule 48(b) dismissal date for sixty  
(60) days.

**DATED:**

Buffalo, New York, February 1, 2021.

Respectfully submitted,

**/s/ Brian P. Comerford**

Brian P. Comerford

Assistant Federal Public Defender

Federal Public Defender's Office

300 Pearl Street, Suite 200

Buffalo, New York 14202

(716) 551-3341, (716) 551-3346 (Fax)

brian\_comerford@fd.org

*Counsel for Defendant Dyllan M. Barber*

**TO:** Jeffrey T. Fiut  
Assistant United States Attorney

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

**20-MJ-1187-JJM**

v.

**AFFIRMATION**

DYLLAN M. BARBER,

Defendant.

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**BRIAN P. COMERFORD**, affirms under penalty of perjury that:

1. I represent the defendant, Dylann Barber.
2. This case is scheduled to be dismissed pursuant to Rule 48(b) on February 23, 2021.
3. I respectfully request that the Court adjourn this deadline for 60 days. I recognize that the Court does not extend Rule 48(b) deadlines for plea negotiations, and I am not requesting an extension on that basis. Since this case was charged, the Government has provided discovery to the defense and we have reviewed it with the help of a computer forensics expert. Additionally, the Government has offered a favorable plea to Mr. Barber that would avoid an otherwise applicable mandatory minimum sentence of 15 years. It is my understanding that this Plea Agreement will be withdrawn if his case is indicted.
4. Unfortunately, because of the ongoing COVID-19 pandemic, my discussions with Mr. Barber have consisted entirely of phone calls and zoom videoconferences. Prior to the pandemic, a case like this would have involved multiple in-person attorney-client meetings to discuss the charges, the discovery, and a possible resolution. These meetings are particularly

important for a client such as Mr. Barber who is young (20 years old) and has never been in any sort of trouble with the Criminal Justice System. I believe in-person meetings are essential to my representation of Mr. Barber, and to him making an informed decision about how to proceed, whether he opts to take a Plea Agreement or defend this case at trial.

5. While I presently cannot meet in-person with Mr. Barber, I expect that this restriction will be lifted as infection rates continue to decline. I believe that if the Court extends the Rule 48(b) deadline for 60 days, I will have sufficient time to meet with Mr. Barber to discuss the case and all of his options so that he can make an informed decision.

6. I have discussed this request with Assistant United States Attorney Jeffrey Fiut and Mr. Fiut has indicated that the Government has no objection to a 60-day adjournment.

7. I agree that the intervening time should be excluded under the Speedy Trial Act.

**DATED:** Buffalo, New York, February 1, 2021.

Respectfully submitted,

**/s/Brian P. Comerford**

Brian P. Comerford

Assistant Federal Public Defender

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*Counsel for Defendant Dyllan M. Barber*

**TO:** Jeffrey T. Fiut  
Assistant United States Attorney